

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SECURITIES AND EXCHANGE)	
COMMISSION,)	8:03CV545
)	
Plaintiff,)	
)	
v.)	ORDER
)	
PRESIDENTS TRUST COMPANY,)	
LLC, JON PATRICK PIERCE, AND)	
DAVID D. KLASNA,)	
)	
Defendants.)	
_____)	

This matter is before the court on a Motion for Authority to Make Final Disbursement of Receivership Funds and Final Application for Compensation and Reimbursement of Expenses for Receiver and Accountants filed by Thomas D. Stalnaker, Receiver. Filing No. [107](#). No objection or resistance to the motion has been filed. The court has considered the motion and finds it should be granted.

The Receiver has taken custody of, and liquidated, all assets of the investment program known as Fixed Income Trust-Secured (hereinafter "FITS"). The total invested in said accounts is \$10,666,401.86. He has shown that approximately \$186,000.00 is currently on deposit at Mutual of Omaha Bank, in account number 413992. He has previously made three distributions to the holders of FITS accounts representing a total of 95% of the amount, approved by this court in orders entered on May 19, 2004, January 20, 2005 and April 4, 2007. See Filing Nos. 33, 49, and 75. A list of all accounts invested in

FITS is attached as Exhibit A to the receiver's motion. Filing No. [107](#), Ex. A. The total invested in said accounts is \$10,666,401.86.

The Receiver seeks authority to use the funds on deposit at Mutual of Omaha Bank to make a final distribution to the holders of said accounts on a pro rata basis. Some distributions in previous disbursements have not been claimed. The Receiver proposes distribution of the unclaimed funds to all FITS investors as part of the final distribution. Further, the Receiver proposes that because of the time and expense of the distributions, any distributions of less than \$5.00 that would otherwise be payable to any FITS investor should be retained by the Receiver and distributed among the other FITS investors. The court finds that the Receiver's recommendations are equitable and in the best interests of the Receivership.

The Receiver also seeks compensation of accounting services. Daniel T. Pleiss, CPA, was employed by Thomas D. Stalnaker, Receiver herein, to perform various accounting services on behalf of the said Receiver. On June 30, 2005, Daniel T. Pleiss, CPA, merged his practice with Koski Professional Group, P.C. That firm has been retained to prepare the tax returns for the year 2008 and the Form 1099s in connection with the final distribution to the FITS investors. The Receiver asserts that the firm will charge \$4,500.00 for those services.

In addition, the Receiver seeks compensation for his services and reimbursement of expenses. He has shown that he and employees of his law firm have devoted a total of 18.39 hours to this matter for the period from April 5, 2008, through November 26, 2008, and will spend a total of 92 additional hours in connection with the winding up of the Receivership and the distribution of the balance of the Receivership funds. See Filing No. [107](#), Ex. B. Based on hourly rates of \$200.00 for the services of Thomas D. Stalnaker,

Receiver, and \$40.00 per hour for the services of a law clerk and paralegal employed by the Receiver's law firm, the fair and reasonable value of said services is \$9,970.80. The Receiver has also shown that he has incurred expenses for the period from April 5, 2008, through November 26, 2008, in the amount of \$4.40, and will incur additional expenses in the amount of \$1,200.00 in connection with the final distribution. See *id.* The court finds the hours and hourly rates are reasonable and the Receiver should be compensated for those services. Accordingly,

IT IS ORDERED that:

1. The Receiver's Motion for Authority to Make Final Disbursement of Receivership Funds and Final Application for Compensation and Reimbursement of Expenses for Receiver and Accountants (Filing No. [107](#)) is granted.
2. The Receiver is authorized and directed to make a final distribution to the FITS investors, listed in Exhibit A to the motion, using funds on deposit at Mutual of Omaha Bank; all distributions shall be made in the name of the Account Registration, as shown on Exhibit A.
3. Any unclaimed funds from previous distributions shall be distributed among the remaining FITS investors.
4. Any funds otherwise payable to a FITS investor in an amount less than \$5.00 shall be retained by the Receiver and distributed among the remaining FITS investors.
5. Compensation to the accounting firm Koski Professional Group, P.C., in the amount of \$4,500.00 is approved.
6. Compensation to Thomas D. Stalnaker, Receiver, in the amount of \$9,970.80 for fees and \$1,204.40 for expenses is approved.
7. The Receiver shall file a final report with the court once all funds have been disbursed and accounts are closed.

DATED this 22nd day of December, 2008.

BY THE COURT:

s/ Joseph F. Bataillon

Chief District Judge